

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

IN RE: DMCA SECTION 512(h)
SUBPOENA TO CLOUDFLARE, INC.

Misc. Action No. _____

**PETITIONERS AMERICAN
CLOTHING EXPRESS, INC. d/b/a
ALLURE BRIDALS and JUSTIN
ALEXANDER, INC.’S REQUEST TO
CLERK FOR ISSUANCE OF
SUBPOENA PURSUANT TO 17 U.S.C.
§ 512(h) TO IDENTIFY ALLEGED
INFRINGEMENTS**

Petitioner American Clothing Express, Inc. d/b/a Allure Bridals (“Allure”) and Justin Alexander, Inc. (“Justin Alexander”), through its undersigned counsel of record, hereby requests that the Clerk issue a subpoena pursuant to 17 U.S.C. § 512(h), the Digital Millennium Copyright Act (“DMCA”)’s subpoena provision. The proposed DMCA Subpoena is submitted concurrently herewith.

By way of background, Section 512(h) of Title 17 of the U.S. Code (as enacted by the “Online Copyright Infringement Liability Limitation Act” as part of the Digital Millennium Copyright Act (“DMCA”)) provides that a “copyright owner or person authorized to act on the owner’s behalf may request the clerk of any United States District Court to issue a subpoena to a service provider for identification of an alleged infringer in accordance with this subsection.” 17 U.S.C. § 512(h)(1).

This DMCA Subpoena is directed to Cloudflare, Inc., whereon the relevant infringing activities first occurred. (See Declaration of Russell Bogart dated November 3, 2021 (“Bogart Declaration”).)

Allure and Justin Alexander have satisfied the requirements for issuance of a subpoena pursuant to 17 U.S.C. § 512(h) and hereby file the following items with the Clerk:

- (1) Allure and Justin Alexander have submitted copies of the notification required by 17 U.S.C. § 512(c)(3)(A) as Exhibits A and B to the Bogart Declaration, submitted concurrently herewith;
- (2) Allure and Justin Alexander have submitted the proposed DMCA Subpoena concurrently herewith;
- (3) Allure and Justin Alexander have submitted the sworn declaration of Russell Bogart attesting that the subpoena is being sought to obtain the identity of the alleged infringer(s), and that such information will be used for the purpose of protecting its rights under Title 17 of the United States Code.

Accordingly, because Allure and Justin Alexander have complied with the statutory requests, they respectfully request that the Clerk expeditiously issue and sign the proposed DMCA Subpoena pursuant 17 U.S.C. § 512(h) and return it to the undersigned counsel for service on the subpoena recipient.

Dated: November 3, 2021

Respectfully submitted,

s/ Nicole D. Berkowitz
Nicole D. Berkowitz (TN #35046)
Grady M. Garrison (TN #8097)
**BAKER, DONELSON, BEARMAN,
CALDWELL & BERKOWITZ, P.C.**
165 Madison Avenue, Suite 2000
Memphis, TN 38103
Telephone: (901) 526-2000
Facsimile: (901) 577-2303
Email: ggarrison@bakerdonelson.com
Email: nberkowitz@bakerdonelson.com

Russell Bogart (NY #2856078)
Stuart Kagen (NY #SK6496)
(Admitted *Pro Hac Vice*)
KAGEN, CASPERSEN & BOGART, PLLC
757 Third Avenue, 20th Floor
New York, NY 10017
Telephone: (212) 880-2045
Facsimile: (646) 304-7879
Email: rbogart@kcbfirm.com
Email: skagen@kcbfirm.com

*Attorneys for American Clothing Express, Inc.
d/b/a Allure Bridals and Justin Alexander, Inc.*